

[Waiver 1994-6]

MEMORANDUM

October 18, 1994

TO: Andrea Eaton, Director  
Silver Spring Regional Services

Linda Katz, Member  
Silver Spring Center Citizens Advisory Board

FROM: Jay L. Cohen, Chair [signed]  
Montgomery County Ethics Commission

RE: Request for Waiver

The Ethics Commission has reviewed the request for a waiver of the Ethics Law as it applies to a member of the Silver Spring Center Citizens Advisory Board (SSCCAB). Specifically, the member would like to continue to serve on the SSCAB while performing as Project Manager under a contract to the Silver Spring Urban District (Urban District), which is a part of the Montgomery County Department of Transportation. In support of this request, you have submitted the following information.

In July 1994, Potomac Incorporated received a contract with the Urban District to perform promotion activities. The SSCAB member is also the Project Manager for Potomac Incorporated. The contract was awarded by County staff who have no relationship with the SSCAB, and the SSCAB is not involved with the function of the Urban District or its promotion programs. You also have explained that the member's term with the SSCAB ends in February 1995 and her service until then is invaluable based upon her long-time residence in Silver Spring and her knowledge of the community. Moreover, she has been instrumental in matters involving the revitalization of the Silver Spring CBD and library services, and her writing and communication skills are an asset to the SSCAB.

The Ethics Law provides:

[U]nless the Commission grants a waiver under subsection 19A-8(b), a public employee must not:

\* \* \*

- (2) hold any employment relationship that would impair the impartiality and independence of judgment of the public employee.

§19A-12(B)(2) of the Montgomery County Code 1994. To obtain a waiver, the Ethics Commission must find that:

- (1) the waiver is needed to ensure that competent services to the County are timely and available;
- (2) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or
- (3) the proposed employment is not likely to create an actual conflict of interest.

§19A-8(b) of the Montgomery County Code 1994.

Based upon the information provided, the Ethics Commission finds that the proposed employment is not likely to create an actual conflict of interest because the SSCAB has no involvement with the functioning of the Urban District. The Commission finds that the waiver may be granted, with the condition that the duties associated with the two positions remain separate and do not coincide at any time.

If you have any questions, please do not hesitate to contact the Ethics Commission.

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cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission